

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

EDWARD WHITEHEAD,

Plaintiff,

v.

SERVICEMASTER,

Defendant.

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No. 4:08CV1711 CEJ

MEMORANDUM AND ORDER

This matter is before the Court on defendant's motion to compel plaintiff to make his Rule 26(a) disclosures and to respond to defendant's discovery requests. Plaintiff has not filed a response, and the time allowed for doing so has expired.

Under Rule 37(a) of the Federal Rules of Civil Procedure, a party may move for a motion compelling disclosure or discovery "[i]f a party fails to make a disclosure required by Rule 26(a)" or if "a party fails to answer an interrogatory submitted under Rule 33." A motion to compel "must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action." Id.

Here, the defendant served plaintiff with interrogatories, requests for production of documents, and requests for admission on November 24, 2009. Along with the requests, defense counsel included a letter explaining to plaintiff what the documents were. Plaintiff's responses to the written discovery were due on December 24, 2009. Defendant agreed to plaintiff's request for additional time to respond to the discovery. However, plaintiff did not submit his responses by the new deadline.

On January 26, 2010, defendant attempted to phone plaintiff to discuss the discovery requests, but there was no answer and no ability to leave a message. As of the date of the filing of the motion to compel, plaintiff had neither submitted his Rule 26(a) disclosures nor submitted complete responses to the discovery requests.

In its motion, defendant certifies that it in good faith attempted to confer with plaintiff and to resolve the dispute without court interference.

Accordingly,

IT IS HEREBY ORDERED that defendant's motion to compel discovery [#23] is **granted**.

IT IS FURTHER ORDERED that not later than March 4, 2010, plaintiff shall (1) submit his Rule 26(a) disclosures, (2) submit complete answers to defendant's interrogatories and requests for admission, and (3) produce all documents responsive to defendant's request for production.

Plaintiff is warned that if he fails to comply with this Order, the Court may impose sanctions, as authorized by Rule 37(b)(2)(A) of the Federal Rules of Civil Procedure, including dismissal of this case.

Dated this 19th day of February, 2010.

A handwritten signature in black ink, appearing to read "Carol E. Jackson", written over a horizontal line.

CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE